

**CHAPTER 370: CLAIMS AGAINST THE STATE OF MONTANA**

**CONTENTS**

A. Contractor Claims..... 370- 2

B. Employee Claims ..... 370- 2

C. Tort Claims ..... 370- 2

## **370 CLAIMS AGAINST THE STATE OF MONTANA**

The State of Montana has a general liability self-insurance program (Title 2, Chapter 9, Part 2, MCA) administered by the Tort Claims Division, Department of Administration, Sam W. Mitchell Building, Helena, MT 59620; telephone (406) 444-2421 and website:

<http://discoveringmontana.com/doa/rmtd/claims/agenciesreportclaims.asp>

### **A. CONTRACTOR CLAIMS**

See Appendix of this manual for the Contract Claims Worksheet and refer to the table on the next three pages.

### **B. EMPLOYEE CLAIMS**

Employee claims from regular State employees and EFFs must be submitted through your home unit and are covered under applicable State regulations. Claims will be processed according to the applicable State procedures. (See the NWCG Interagency Incident Business Management Handbook, Chapter 70, “Information to be provided to the Claimant”, and refer to the table on the next three pages.)

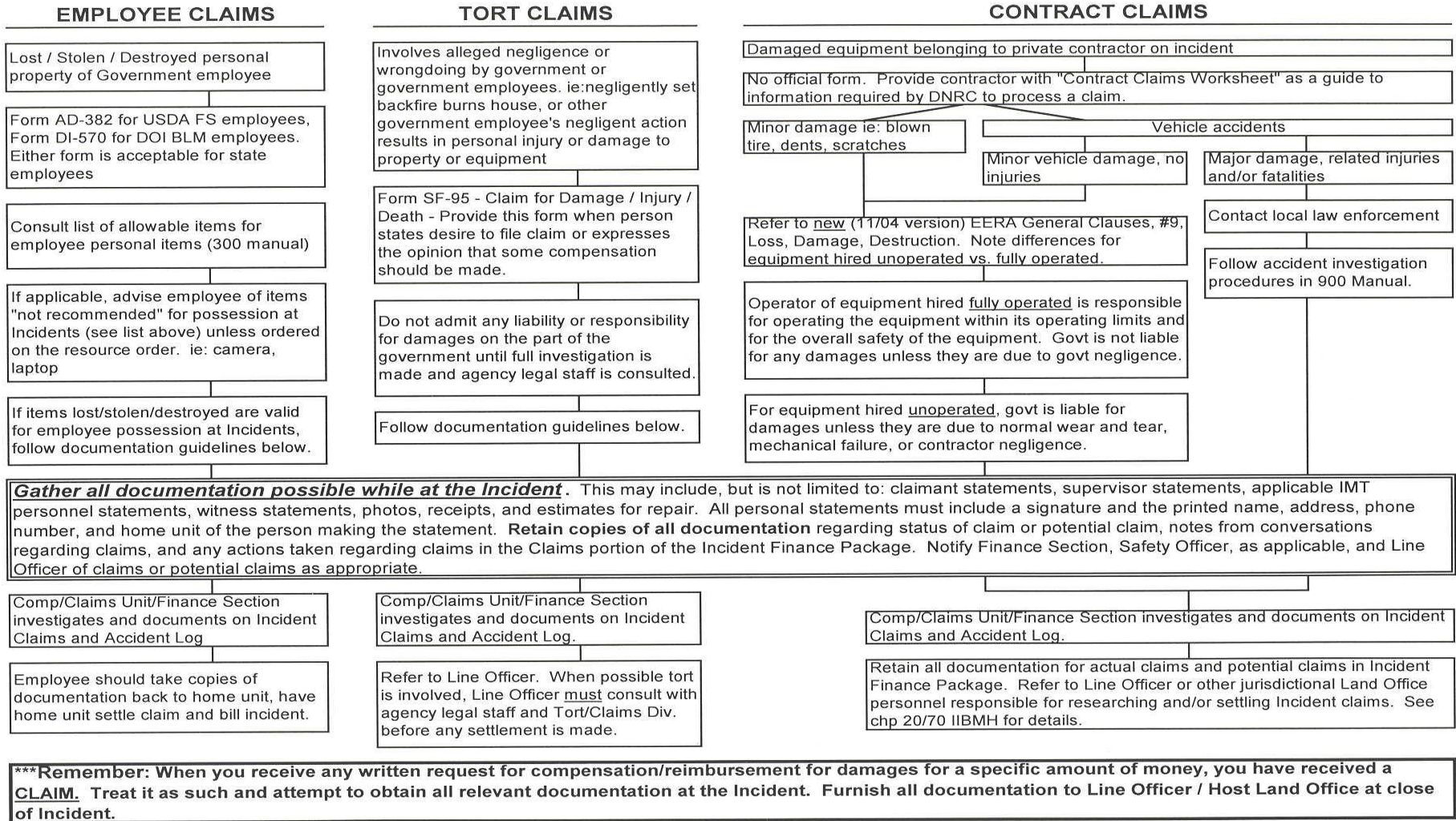
See Appendix for suggested guidelines of personal possessions allowable for claim reimbursement.

### **C. TORT CLAIMS**

Refer to the table on the next three pages.

## Guidelines for Incident Claims Handling on DNRC Incidents

page 1 of 3



EMPLOYEE CLAIMS	TORT CLAIMS	CONTRACT CLAIMS
<p><b><i>Common Examples of Employee Claims Usually Reimbursed</i></b></p> <ul style="list-style-type: none"> <li>~Fire burned over camp, tent and personal belongings destroyed</li> <li>~Personal items stolen from tent while employee is on duty</li> <li>~Prescription eyeglasses broken during the course of duty</li> <li>~Nomex pants not returned after sent to laundry service</li> </ul>	<p><b><i>Common Examples of Tort Claims Usually Reimbursed</i></b></p> <ul style="list-style-type: none"> <li>~Government set backfire burned fence, home, or other improvements on private property</li> <li>~Engine backed into private fence</li> <li>~Vehicle accident between private contractor's vehicle and government vehicle, where government driver was determined to be at fault</li> </ul>	<p><b><i>Common Examples of Contract Claims Usually Reimbursed</i></b></p> <ul style="list-style-type: none"> <li>~Heavy equipment (hired fully operated) slid down slope into a tree, cause was determined to be govt employee's negligence in directing the equipment</li> <li>~Snag felled by govt employee falls on parked equipment</li> <li>~Logs or rocks rolling downhill damaged equipment, or equipment was burned up {assume govt negligence in directing the placement of the equipment}</li> </ul>
<p><b><i>Common Examples of Employee Claims <u>NOT</u> Usually Reimbursed</i></b></p> <ul style="list-style-type: none"> <li>~Camera/cell phone/laptop etc stolen or lost - items not ordered on resource order</li> <li>~Boots stolen out of bed of truck while employee is at dinner -- {employee negligence caused opportunity for theft to occur}</li> <li>~Prescription eyeglasses broken after being left on seat of chair {employee negligence...}</li> </ul>	<p><b><i>Common Examples of Tort Claims <u>NOT</u> Usually Reimbursed</i></b></p> <ul style="list-style-type: none"> <li>~Vehicle collision between private contractor's vehicle and government vehicle, where contractor was determined to be at fault</li> <li>~Uncontained fire burned fence, home or other improvements on private property</li> </ul>	<p><b><i>Common Examples of Contract Claims <u>NOT</u> Usually Reimbursed</i></b></p> <ul style="list-style-type: none"> <li>~Heavy equipment (hired fully operated) slid down slope into a tree, no govt negligence found. {Operator was responsible for operating the equipment safely and within its operating limits.}</li> <li>~Normal wear and tear from fireline duty - ie: damage to painted surfaces from minor dings, dents, and scratches, dirty air filters, dirty interiors, flat tires, chipped windshields, etc</li> <li>~Damage caused by contractor/operator negligence, speeding, or other reckless driving</li> <li>~Damage caused in a vehicle accident between private contractors {Advise them to contact their own insurance carriers}</li> </ul>
<p><b><i>Note:</i></b></p> <p>Check with employee's home unit to see if compensation was made there and charged to the incident before directly compensating employee for any loss or damage suffered.</p>	<p><b><i>Note:</i></b></p> <p>All potential tort claims must be processed through Risk Management Tort Division of DOA.</p> <p>Line officers or others handling tort claims should be very sensitive to the short and long range effects of the claim under consideration.</p> <p>Use sound judgement, consider possible repercussions, consult with Forestry Division, DNRC legal counsel as necessary. Must consult with Risk Mgt, Tort Div. of DOA.</p> <p>Never admit fault or liability until or unless a final settlement is made.</p>	<p><b><i>Note:</i></b></p> <p>Commonly, contractor claims will require further research or investigation after the incident is over. You may need to obtain additional estimates, pictures of the damaged vehicle, clarification of witness statements, or other information as required, before determining a fair settlement.</p> <p>Consult FAM Bureau, Forestry Division &amp;/or DNRC legal counsel as necessary.</p> <p>Normally, do not offer compensation based on one estimate for repair obtained by contractor - Obtain additional estimates from unbiased vendors to ensure the best deal on repair or replacement. Keep depreciation in mind.</p> <p>Thorough pre-use and post-use inspections are often critical in the settlement of contractor claims. Pictures or videos are especially helpful. At pre-use inspection or EERA sign-up, the contractor should have been told that normal wear and tear on a fireline is probably different from what they encounter in their normal workplace. Dings, dents, scratches, etc are common and normally not eligible for reimbursement.</p>



Chapter 70 of the IIBMH states that a claim consists of a "written demand for a specific amount of money or other objects of value..." When a claimant furnishes this, the Line Officer must view it as a claim. **DNRC must respond to all claims, regardless of type of claim, dollar amount involved, or government personnel's opinion of the merit of the claim. Response must be in writing, and may consist of denial or settlement.** When a claim is denied, every effort should be made to provide claimant with the reasons for denial.

There is no longer a claim threshold amount that will automatically require FAM Bureau or Forestry Division's approval of settlement. However, Line Officers and other personnel evaluating claims at the Area level should exercise sound judgment. **Claims of a sensitive nature or high dollar amount (>\$10,000) should merit consultation with Legal, Bureau, or Division personnel as applicable. Risk Management/Tort must always be involved in claims alleging tort (negligence, wrongdoing) on the part of the government.**